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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,673	12/01/2003	Patricia A. Stark	PD45/06	2391
49716	7590	04/10/2006	EXAMINER	
EDWARD P. DUTKIEWICZ, ESQ. EDWARD P. DUTKIEWICZ, P.A. 640 DOUGLAS AVENUE DUNEDIN, FL 34698-7001			DEL SOLE, JOSEPH S	
			ART UNIT	PAPER NUMBER
			1722	

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

CM

Office Action Summary	Application No. 10/724,673	Applicant(s) STARK ET AL.	
	Examiner Joseph S. Del Sole	Art Unit 1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 2 recite the limitation "the components" in lines 39 and 11 respectively. There is insufficient antecedent basis for this limitation in the claim.

The Applicant has stated that the rejections to claims 1 and 2 have been addressed, but the only changes made to claims 1 and 2 have been a capitalization of the letter "a". The Examiner notes that claims 3 and 4 are rejected because they are dependent on claims 1 or 2 and thus contain the same errors.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 2 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Pleasant (5,261,806).

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Pleasant teaches a pressurized, plate-heated die system having a distribution plate having a material feed aperture (Fig 2, at #24) and a material feed tube coupled there to;

- a U-shaped shim (Fig 1);

- a first insulator dielectric plate (Fig 1, the plate with #70) having a temperature sensor there in (fig 1, #70);

- a heating element (Fig 1, #s 36 and 72);

- a second insulator dielectric plate (Fig 1, note the multiple plates on either end);

- an end plate (Fig 1, note the multiple plates on either end);

- a plurality of bolts to couple the components of the die (Fig 1, #16);

the heating element is an electric heating element connected to a power source (Fig 4, #38).

5. Claims 2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Stavitsky et al (4,462,780).

Stavitsky et al teach a pressurized, plate-heated die system having a distribution plate having a material feed aperture (Fig 1, #108 and connected thereto to #128) and a material feed tube coupled there to;

- a U-shaped shim (Fig 1, #104);

- a first insulator dielectric plate (Fig 1, the plate with #76) having a temperature sensor there in (fig 1, #76);

- a heating element (Fig 1, #60);

- a second insulator dielectric plate (Fig 1, note the multiple plates on either end);

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an end plate (Fig 1, note the multiple plates on either end);
a plurality of bolts to couple the components of the die (Fig 1, #s 86 and 150);
the heating element is a liquid heating element (col 2, lines 55-60) and the
system further includes a source of heated liquid (Fig 1, #60).

Allowable Subject Matter

6. Claim 5 is allowed.
7. Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
8. The following is a statement of reasons for the indication of allowable subject matter: the prior art fails to teach the combination of elements as set forth in claim 1 and fails to teach a method of producing the element produced in claim 5. The closest prior art as set forth above fail to teach all of the elements combined in the manner as set forth.

Response to Arguments

9. Applicant's arguments filed 2/27/06 have been fully considered but they are not persuasive.

Applicant argues that Pleasant does not teach a U-shaped shim.

The Examiner disagrees. As broadly claimed and interpreted, the plate having hole #18 has a cut-out of due to #s 56 and 58, and thus the plate having hole #18 is a U-shaped shim as claimed. The process of extruding a molding material such that the shim pushes material from the die does not have weight in the claim in such a manner to exclude the u-shaped shim of Pleasant.

Applicant argues that Pleasant teaches a heating tube and not a heating plate.

The Examiner disagrees. The tube is part of the plate, through the tube the plate is heated and the plate is thus a heating plate because it is heated and heats other components.

Applicant argues that Pleasant does not teach the plates to be made of dielectric material.

The material of the plates is not claimed. The plates of Pleasant are dielectric because they are not conducting electricity.

Applicant argues that Stavitsky does not teach a U-shaped shim.

The Examiner disagrees. As broadly claimed and interpreted, plate #104 is U-shaped (in Figure 1, the plate extends further to the right at the top and the bottom of the drawing making the plate U-shaped).

Applicant argues that Stavitsky does not teach a slot or passage way in the device.

No slot or passage way is claimed; the Examiner notes that a U-shaped shim may exist (as in Stavitsky) without a slot or passage way.

Applicant argues that Stavitsky does not teach a device that would extrude molten material.

While this may or may not be true, claims 2 and 4 are not limited to extrusion.

Applicant argues that Stavitsky does not teach the use of a first or second dielectric plate.

The plates of Stavitsky are dielectric because they are not conducting electricity.

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Applicant argues that the function of Stavitsky is totally different from that taught by the present invention.

While this may be true, an evaluation of the claims is limited to the structure claimed. The Examiner notes that Stavitsky teaches all the claimed structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph S. Del Sole whose telephone number is (571) 272-1130. The examiner can normally be reached on M-F 8:30 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph S. Del Sole

4/6/06